

ROY ALAN O'GUINN

Name

P.O. BOX 359 LCC

LOVELOCK, NEVADA 89419-0359

Address

67905

Prison Number

U.S. DISTRICT COURT
DISTRICT OF NEVADA
RECEIVED

JAN - 4 2005

CLERK U.S. DISTRICT COURT

BY
DEPUTYLANCE S. WILSON
CLERK

05 JAN - 4 PM 2:00

FILED

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ROY ALAN O'GUINN

Plaintiff,

vs.

JACKIE CRAWFORD, individually

AND

NEVADA DEPARTMENT OF CORRECTIONS

THE STATE OF NEVADA

LOVELOCK CORRECTIONAL CENTER

DIRECTOR OF MENTAL HEALTH FOR THE

NEVADA DEPARTMENT OF CORRECTIONS

[NC 11TH AMENDMENT IMMUNITY UNDER A.D.A.
AND REHAB ACT]

Defendant(s).

CV-N-05-0007-ECR-VPC

CIVIL RIGHTS COMPLAINT
PURSUANT TO
42 U.S.C. § 1983JURY DEMANDA. JURISDICTION1) This complaint alleges that the civil rights of Plaintiff, ROY ALAN O'GUINN
(print Plaintiff's name)who presently resides at POB 359, LCC-67905, LOVELOCK NV 89419-0359, were
(mailing address or place of confinement)
violated by the actions of the below named individuals which were directed againstPlaintiff at EACH PRISON FACILITY I WAS HOUSED AT BY NDOC on the following dates
(institution/city where violation occurred)JAN. '01 + CONT'G, SAME AS CT I, and SAME AS CT I
(Count I) (Count II) (Count III)Paid Amt \$ 150.00 Date 1-4-05Receipt # 17110 Initials LM

Make a copy of this page to provide the below
information if you are naming more than five (5) defendants

- 2) Defendant JACKIE CRAWFORD resides at POB 7011 CARSON CITY NV 89701
(full name of first defendant) (address of first defendant)
and is employed as STATE CORRECTIONS DIRECTOR. This defendant is sued in ~~his~~/her
(defendant's position and title, if any)
~~xxx~~ individual ___ official capacity. (Check one or both). Explain how this defendant was acting
under color of law: STATE EMPLOYEE, REHAB ACT/ADA APPLIES
- 3) Defendant NEVADA DEP'T OF CORRECTIONS resides at POB 7011 CARSON CITY NV 89701
(full name of first defendant) (address of first defendant)
and is employed as STATE CORRECTIONS DEP'T. This defendant is sued in his/her
(defendant's position and title, if any)
___ individual ~~xxx~~ official capacity. (Check one or both). Explain how this defendant was acting
under color of law: NO 11TH AMENDMENT IMMUNITY UNDER ADA/REHAB ACT
ENTITY SUBJECT TO SUIT UNDER SAID STATUTES
- 4) Defendant STATE OF NEVADA resides at CAPITOL COMPLEX CARSON CITY NV 89710
(full name of first defendant) (address of first defendant)
and is employed as ENTITY SUBJECT TO ADA/REHAB ACTS. This defendant is sued in his/her
(defendant's position and title, if any)
___ individual ~~xxx~~ official capacity. (Check one or both). Explain how this defendant was acting
under color of law: ENTITY SUBJECT TO SUIT NO 11TH AMENDMENT IMMUNITY PURSUANT
TO ADA/REHAB ACTS
- 5) Defendant LOVELOCK CORRECTIONAL CENTER resides at POB 359 LOVELOCK NV 89419-0359
(full name of first defendant) (address of first defendant)
and is employed as STATE CORRECTIONAL FACILITY. This defendant is sued in his/her
(defendant's position and title, if any)
___ individual xx official capacity. (Check one or both). Explain how this defendant was acting
under color of law: NO 11TH AMENDMENT IMMUNITY UNDER ADA/REHAB ACT, ENTITY SUBJECT
TO SUIT UNDER SAID ACTS

DIRECTOR, MENTAL HEALTH DIV.
 6) Defendant NEV. DEP'T OF CORRECTIONS resides at 1721 SNYDER ST, CARSON CITY NV
 (full name of first defendant) (address of first defendant)
 and is employed as DIRECTOR MENTAL HEALTH DIV. This defendant is sued in his/~~her~~
 (defendant's position and title, if any)
~~XXX~~ individual official capacity. (Check one or both). Explain how this defendant was acting
 under color of law: PARTY SUBJECT TO SUIT UNDER REHAB/ADA ACTS

7) Jurisdiction is invoked pursuant to 28 U.S.C. § 1343(a)(3) and 42 U.S.C. § 1983. If you wish to assert jurisdiction under different or additional statutes, list them below.

ADA
29 USC § 794 et seq. REHAB ACT / 42 USC § 12101 /

[NOT A CIVIL RIGHTS ACTION EXCEPT AS MAY BE COVERED IN
 THE ABOVE STATUTES]

B. NATURE OF THE CASE

1) Briefly state the background of your case.

ON 10-23-00 A STATE DISTRICT COURT (CLARK COUNTY, NV) ENTERED AN ORDER CERTIFYING PLAINTIFF O'GUINN AS "MENTALLY ILL AND INCOMPETENT" (CASE C-159730-C), ON 01-04-01 THAT SAME COURT SENTENCED PLAINTIFF AS "GUILTY BUT MENTALLY-ILL" UNDER NRS 174.041 AFTER PLAINTIFF WAS MADE TO EXECUTE A PLEA AGREEMENT WHICH CONTAINS THE FOLLOWING CONTRACTUAL STATEMENT: "THE PURPOSE OF MY PLEA OF GUILTY BUT MENTALLY-ILL IS NOT TO CHALLENGE THE COURT'S ALREADY ENTERED FINDINGS OF COMPETENCY, BUT TO INSURE THAT I RECEIVE APPROPRIATE TREATMENT DURING MY INCARCERATION". THIS INSTANT COMPLAINT DOES NOT CHALLENGE PLAINTIFF'S CONVICTION (THOUGH NRS 174.041 WAS RULED UNCONSTITUTIONAL BY NEVADA SUPREME COURT, 27 P. 3D 66 [2001], THAT MATTER IS BROUGHT OUTSIDE THIS COMPLAINT). IN PETITIONER'S PSI REPORT, THE ABOVE CONTRACTUAL STATEMENT IS REPEATED, ON PAGE 2 UNDER "PLEA NEGOTIATION" "THE PURPOSE OF THE GUILTY PLEA, GUILTY BUT MENTALLY ILL IS NOT TO CHALLENGE THE COURT'S ALREADY ENTERED FINDINGS OF COMPETENCY, BUT TO INSURE THAT THE DEFENDANT RECEIVE APPROPRIATE TREATMENT DURING INCARCERATION". FROM THE DATE OF PLAINTIFF'S ARRIVAL AT THE STATE CORRECTIONS DEPARTMENT, AND IN THE VARIOUS FACILITIES HE WAS ASSIGNED TO, HE HAS RECEIVED "NO" MENTAL HEALTH TREATMENT OR CARE IN ANY WAY, SHAPE OR FORM. THIS CLAIM STARTS FROM THAT JANUARY 2001 DATE THROUGH TO THE DATE OF THIS COMPLAINT AND THROUGH TO THE COMPLETION OF THIS LITIGATION. PLAINTIFF HAS A QUALIFIED "DISABILITY" UNDER THE ADA ACT ["A MENTAL IMPAIRMENT THAT SUBSTANTIALLY LIMITS A MAJOR LIFE ACTIVITY AND HAS A RECORD OF SUCH IMPAIRMENT, A.D.A. OF 1990 § 3(2), 42 USC § 12102(2)], HE IS BEING DENIED THE BENEFITS OF A PROGRAM OR ACTIVITY OF AN ENTITY WHICH RECEIVES FEDERAL FUNDS, AND IS BEING DISCRIMINATED AGAINST BASED UPON HIS DISABILITY. BOTH THE A.D.A. AND REHAB ACTS QUALIFY TO THESE STANDARDS.

C. CAUSE OF ACTION

COUNT I

The following civil right has been violated: _____

AMERICANS WITH DISABILITIES ACT, 42 USC § 12101 et seq., AND

REHABILITATION ACT 29 USC § 794 et seq.

Supporting Facts: [Include all facts you consider important. State the facts clearly, in your own words, and without citing legal authority or argument. Be sure you describe exactly what each specific defendant (by name) did to violate your rights].

BEGINNING JANUARY 2001, AND CONTINUING THROUGH TO PRESENT, THE DEFENDANTS
HAVE PROVIDED PLAINTIFF WITH NO MENTAL HEALTH CARE OR TREATMENT, EVEN DESPITE
A STATE DISTRICT COURT ORDER DEEMING PLAINTIFF MENTALLY ILL AND INCOMPETENT,
A CONTRACTUAL PLEA AGREEMENT GUARANTEEING PLAINTIFF'S PLEA WOULD RESULT IN
APPROPRIATE MENTAL HEALTH CARE AND TREATMENT, AND A FOOT-HIGH STACK OF MENTAL
HEALTH RECORDS CONTAINED IN PLAINTIFF'S CASE FILE AND PRISON RECORDS.
PLAINTIFF, RESULTINGLY, HAS SUFFERED PHYSICAL INJURY BY PRISONERS WHOM ARE
AGGRAVATED BY PLAINTIFF'S BIZARE AND INSTITUTIONALLY UNACCEPTABLE BEHAVIOR,
SUCH PHYSICAL INJURIES COMBINED WITH THE TOTAL LACK OF MENTAL HEALTH CARE AND
TREATMENT HAVE HANDICAPPED PLAINTIFF WORSE AND DENIED HIM EQUAL CARE UNDER
THESE TWO ACTS AND HAS BEEN DONE SOLELY ON THE BASIS OF HIS DISABILITY. PLAINTIFF
HAS A LENGTHY ESTABLISHED MENTAL ILLNESS RECORD. THE NAMED DEFENDANTS HAVE AN
ESTABLISHED SET OF MENTAL HEALTH PROGRAMS AND SERVICES, BENEFITS AND CARE WHICH
THEY HAVE DENIED TO PLAINTIFF.

NOTE: A SEPARATE MOTION FOR APPOINTED COUNSEL FILED WITH THIS COMPLAINT.

COUNT II

The following civil right has been violated: _____

N/A

Supporting Facts: [Include all facts you consider important. State the facts clearly, in your own words, and without citing legal authority or argument. Be sure you describe exactly what each specific defendant (by name) did to violate your rights].

ANS

Age Group	Percentage of Respondents
18-29	75
30-49	85
50-69	90
70+	95

[illegible]

100

D. PREVIOUS LAWSUITS AND ADMINISTRATIVE RELIEF

- 1) Have you filed other actions in state or federal courts involving the **same or similar facts** as involved in this action? ☐ Yes ☒ No. If your answer is "Yes", describe each lawsuit. (If more than one, describe the others on an additional page following the below outline).

- a) Defendants: n/a
- b) Name of court and docket number: _____
- c) Disposition (for example, was the case dismissed, appealed or is it still pending?):

- d) Issues raised: _____

- e) Approximate date it was filed: _____
- f) Approximate date of disposition: _____

- 2) Have you filed an action in federal court that was dismissed because it was determined to be frivolous, malicious, or failed to state a claim upon which relief could be granted? ☐ Yes ☒ No. If your answer is "Yes", describe each lawsuit. (If you have had more than three actions dismissed based on the above reasons, describe the others on an additional page following the below outline).

Lawsuit #1 dismissed as frivolous, malicious, or failed to state a claim:

- a) Defendants: n/a
- b) Name of court and case number: _____
- c) The case was dismissed because it was found to be (check one): ☐ frivolous
☐ malicious or ☐ failed to state a claim upon which relief could be granted.
- d) Issues raised: _____

- e) Approximate date it was filed: _____
- f) Approximate date of disposition: _____

Lawsuit #2 dismissed as frivolous, malicious, or failed to state a claim:

- a) Defendants: _____ n/a
- b) Name of court and case number: _____
- c) The case was dismissed because it was found to be (check one): ____ frivolous
____ malicious or ____ failed to state a claim upon which relief could be granted.
- d) Issues raised: _____
- e) Approximate date it was filed: _____
- f) Approximate date of disposition: _____

Lawsuit #3 dismissed as frivolous, malicious, or failed to state a claim:

- a) Defendants: _____ n/a
- b) Name of court and case number: _____
- c) The case was dismissed because it was found to be (check one): ____ frivolous
____ malicious or ____ failed to state a claim upon which relief could be granted.
- d) Issues raised: _____
- e) Approximate date it was filed: _____
- f) Approximate date of disposition: _____

- 3) Have you attempted to resolve the dispute stated in this action by seeking relief from the proper administrative officials, e.g., have you exhausted available administrative grievance procedures? ____ Yes ☒ No. If your answer is "No", did you not attempt administrative relief because the dispute involved the validity of a: (1) ____ disciplinary hearing; (2) ____ state or federal court decision; (3) XXX state or federal law or regulation; (4) ____ parole board decision; or (5) ____ other MENTALLY ILL INCOMPETENT UNABLE TO ACT
AND ADA/REHAB ACT HAS NO EXHAUSTION REQUIREMENTS
If your answer is "Yes", provide the following information. Grievance Number _____
Date and institution where grievance was filed _____

Response to grievance: N/A

E. REQUEST FOR RELIEF

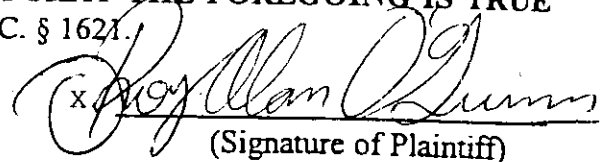
I believe that I am entitled to the following relief:

- 1] APPOINTMENT OF COUNSEL FOR MENTALLY-ILL INCOMPETENT PRISONER-PLAINTIFF
 - 2] DAMAGES AND PUNITIVE AWARD DETERMINED BY JURY
 - 3] COSTS OF THIS ACTION AND ATTORNEY FEES AND EXPENSES
 - 4] OTHER RELIEF AS ALLOWED UNDER ADA/REHAB ACTS AS COURT DEEMS JUST.
- _____
- _____
- _____

I understand that a false statement or answer to any question in this complaint will subject me to penalties of perjury. I **DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE UNITED STATES OF AMERICA THAT THE FOREGOING IS TRUE AND CORRECT.** See 28 U.S.C. § 1746 and 18 U.S.C. § 1621.

(PRISON LAWCLERKS)

(Name of person who prepared or helped
prepare this complaint if not Plaintiff)


(Signature of Plaintiff)

NOVEMBER 9, 2004

(Date)

(Additional space if needed; identify what is being continued)

n/a
